

## **CHAPTER 7**

# **HOUSING**

### **A. RENTING A HOME/APARTMENT**

#### **1. RENTAL AGREEMENTS**

The rights and responsibilities of landlords and tenants are generally governed by a rental agreement between the parties. Rental agreements may be either oral or written unless the rental term is for a period longer than one year, in which event the agreement must be in writing. If the rental agreement does not provide for a specific period of time as the rental term, the agreement will be a “tenancy at will” and can be terminated by either party upon giving the other party written notice at least 30 days prior to the effective date of termination.

#### **2. EVICTIONS**

In addition to other remedies provided by a lease agreement, under Idaho law a landlord may, upon giving three days written notice, sue a tenant for possession of the leased premises if the tenant (1) stays beyond the agreed term of the lease without permission, or (2) fails to pay rent on time, or (3) violates other conditions of the agreement, or (4) engages in unlawful delivery, production or use of controlled substances on the premises.

If the tenant fails to pay rent or engages in unlawful delivery, production or use of controlled substances, a landlord may sue for possession of the premises and the court hearing will be held not sooner than 5 days and not later than 12 days after the tenant has been notified of the suit.

A landlord may also sue a tenant for monetary damages caused by a tenant’s failure to pay rent, failure to vacate the premises upon expiration of the rental term, or caused by other breach of the agreement. The landlord may also be entitled to recover attorney fees and costs of the suit.

Except when a tenant has abandoned the premises, a landlord cannot hold a tenant’s property or lock the tenant out without a court order.

#### **3. RENT INCREASES**

A landlord may increase the rent during the term of a lease only if the agreement expressly permits rent adjustments, otherwise the rent cannot be changed until the rental term expires. After the applicable rental term expires, the landlord is free to adjust the rent or change other provisions of the rental agreement.

Under a month-to-month rental agreement, the landlord may change the agreed conditions of the rental, including the amount of rent, only after written notice to the tenant given at least 15 days before the end of the monthly term and such change or increase in rent shall not become effective until the first day of the following month.

### **B. RENTING A MOBILE HOME LOT**

The Mobile Home Park Landlord-Tenant Act is Idaho Code Section 55-2000 et seq. This Act has special requirements to protect persons who rent lots in a mobile home park on which they place their own mobile home. It is intended to address the special circumstances relating to the separate ownership of the mobile home from the ownership of the lot on which it is installed. The Act does not apply to rental agreements where both the mobile home and the lot are rented from the landlord. The following summarizes the provisions of the Mobile Home Park Landlord-Tenant Act.

#### **1. RENTAL AGREEMENTS**

A tenant must be provided a written rental agreement at the beginning of the tenancy. The rental agreement must contain terms for payment of rent, park rules, names and addresses of managers and owners or their agents and terms regarding any deposits. The rental agreement shall not include provisions by which the tenant agrees to waive or give up rights or remedies, exit or entry fees, or unreasonable restriction on access to the park by guests of the tenant.

Rental agreements renew automatically unless a landlord gives the tenant at least 90 days written notice of intent not to renew. The tenant is required to give the landlord 30 days written notice of the intent not to renew.

#### **2. PARK RULES**

Park rules are only enforceable if they are part of the written rental agreement. Park rules can be changed after 90 days written notice to the tenant. Rules may only be changed once every six months.

### **3. RENT INCREASES**

A landlord may increase rents only after 90 days written notice to the tenants. Rental increases shall be the same throughout the mobile home park. The amount of rent charged within a mobile home park based upon lot or home size, amenities, lot location or otherwise system must be applied uniformly among all renter similarly situated.

### **4. EVICTIONS**

A landlord may terminate the rental agreement for nonpayment of rent or repeated violations of park rules. The landlord must provide a three-day written notice to the tenant, giving the tenant that period to pay the rent or cure the violations. If the tenant does not comply with the three-day notice, the tenant will be given 20 days to vacate the mobile home park. The landlord may sue for possession of the rented lot if the tenant does not vacate the premises pursuant to the notice. A tenant has the right to written notice if the property will no longer be used as a mobile home park.

### **5. SALE OF A MOBILE HOME**

A landlord cannot prohibit a tenant from selling a mobile home nor can a landlord require a tenant to move a mobile home solely because the home is for sale. The landlord may not receive a commission from the sale unless the landlord has acted as the seller's agent pursuant to a written agreement entered into voluntarily.

### **6. RETALIATION**

A landlord shall not retaliate against a tenant for complaining in good faith to a governmental agency or to the landlord regarding the mobile home park, organizing or becoming affiliated with a tenant association, or retaining counsel or an agent.

## **C. PUBLIC HOUSING**

A person with limited income may qualify for some form of public housing benefits to either rent or buy a home through programs established by the United States Department of Housing and Urban Development. Information regarding these programs is available through local city or county housing agencies or the Idaho Housing and Finance Association located in Boise, Idaho. The laws, rules and regulations governing each program may vary significantly and may differ from the general provisions of state law previously discussed.

## **D. FAIR HOUSING**

A landlord cannot refuse to rent to a tenant because of race, religion or gender. A landlord may not discriminate against a person with a disability or families with children. There are a number of exemptions to these categories. Further information is available from the Idaho Human Rights Commission in Boise, Idaho and the offices of the United States Department of Housing and Urban Development (HUD) which for this region is located in Seattle, Washington. Idaho Legal Services, Inc., 310 North 5th, Boise, Idaho 83702, P.O. Box 1683, Boise, Idaho 83701 (208-345-0106) has a Fair Housing Initiatives Program funded by HUD and also investigates discrimination complaints.

## **E. REPAIRS**

Under Idaho Code Section 6-320, a tenant may bring an action in court against a landlord for: (1) failing to provide waterproofing or weather protection of the premises, (2) failing to maintain electrical, plumbing, heating, ventilation, cooling and sanitary facilities in good working condition, (3) failing to keep the premises free from hazardous, unhealthy or unsafe conditions, (4) failing to return a security deposit, or (5) failing to install and maintain approved smoke detectors in good operating condition. Before starting a lawsuit, a tenant must give at least 3 days written notice to the landlord listing all of the deficiencies and requesting corrections. Notice must either be delivered to the landlord or his or her agent personally, left at his or her usual place of business, or it may be sent by certified mail, return receipt requested. If the landlord fails to correct all required repairs within three days after receiving the notice, the tenant may sue the landlord for an order requiring correction of deficiencies and for damages caused by the deficiencies. In certain circumstances, the tenant may be entitled to recover three times the amount of actual damages suffered. A tenant should not withhold rent or use other self-help methods to obtain repairs.

## **F. SECURITY DEPOSITS**

A landlord may require a tenant to pay a security deposit pursuant to a rental agreement. The deposit is usually applied to unpaid rent or to any expenses incurred by the landlord for damages caused by the tenant to the property but does not include normal wear and tear to the rental unit. Refunds must be made within the time agreed upon by the rental agreement but in no event later than 30 days after the surrender of the premises by the tenant. Refunds of an amount less than the full deposit must be accompanied by a signed statement itemizing the amount retained, listing the expenses incurred and stating the reason for withholding any portion of the

deposit. Any person who purchases apartments or other rental property shall be liable for security deposits made to the previous owner.

## **G. ADDITIONAL INFORMATION**

Additional information is available from the following offices:

Idaho Legal Aid Services, Inc.

Locations in Boise (208-345-0106); Caldwell (208-454-2591); Coeur d'Alene (208-667-9559); Idaho Falls (208-524-3660); Lewiston (208-743-1556); Pocatello (208-233-0079) and Twin Falls (208-734-7024).

United States Housing and Urban Development

Washington State Office

909 First Avenue, Suite #200

Seattle, Washington 98104-1061

## **H. BUYING AND SELLING A HOME (REAL PROPERTY)**

Under Idaho law, any individual over the age of 18 years may purchase real property (land and permanent improvements) in her/his name. An individual who is unmarried will purchase real property in her/his name "as a single woman/man." A married individual may purchase real property "as a married woman/man dealing with her/his sole and separate property" from her/his separate funds or together with a spouse "as husband and wife" with community property funds.

The name(s) that appear on the title are critical. If an individual purchases real property in her/his own name with separate property funds, the property remains sole and separate property. Separate property funds come from property owned before marriage or received by gift or inheritance after marriage.

When real property has both the husband's and wife's name on the title and is used as security for a new debt or is sold, the signatures of both spouses are required for a valid transaction. Most often both husband's and wife's signatures are also required when a spouse sells real property which is the sole and separate property of that spouse. Both signatures are required because a community property interest may have been created in the real property by using community property funds for its repair or improvement.